

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that House Bill 1715 be amended to read as follows:

- 1 Page 8, delete lines 34 through 42 and insert the following:
- 2 "SECTION 10. IC 24-4.5-7 IS ADDED TO THE INDIANA
- 3 CODE AS A NEW CHAPTER TO READ AS FOLLOWS
- 4 [EFFECTIVE JULY 1, 1999]:
- 5 **Chapter 7. Deferred Presentment**
- 6 **Sec. 101. Short Title - This chapter shall be known and may be**
- 7 **cited as Uniform Consumer Credit Code - Deferred Presentment.**
- 8 **Sec. 102. This chapter applies to deferred presentment**
- 9 **transactions as defined in section 106 of this chapter. The**
- 10 **provisions for supervised loans under IC 24-4.5-3-503 through**
- 11 **IC 24-4.5-3-507 apply to this chapter.**
- 12 **Sec. 103. The following definitions apply to this chapter:**
- 13 **"Department" Section 7-104**
- 14 **"Check" Section 7-105**
- 15 **"Deferred presentment transaction" Section 7-106**
- 16 **"Maker" Section 7-107**
- 17 **"Licensee" Section 7-108**
- 18 **"Renewal" Section 7-109**
- 19 **Sec. 104. As used in this chapter, "department" means the**
- 20 **department of financial institutions.**
- 21 **Sec. 105. As used in this chapter, "check" means any check,**
- 22 **draft, money order, personal money order, traveler's check, or**
- 23 **other demand instrument for the transmission or payment of**
- 24 **money.**
- 25 **Sec. 106. As used in this chapter, "deferred presentment**
- 26 **transaction" means a transaction where a check is cashed by a**
- 27 **person licensed under this chapter and by mutual agreement**

1 between the licensee and the maker of the check, and the check's
2 presentment or negotiation is deferred for a period of time not to
3 exceed thirty-one (31) days. A deferred presentment transaction
4 that complies with this chapter may not be construed to be a loan
5 for any purpose.

6 Sec. 107. As used in this chapter, "maker" means any person
7 who writes a check and upon whose account the check is drawn.

8 Sec. 108. As used in this chapter, "licensee" means a person duly
9 licensed by the department to engage in the deferred presentment
10 business under this chapter.

11 Sec. 109. As used in this chapter, "renewal" means the
12 termination of an existing deferred presentment agreement solely
13 by the payment of fees then due the licensee and the substitution of
14 a new check drawn by the maker pursuant to a new deferred
15 presentment agreement.

16 Sec. 201. No licensee shall charge fees in excess of eighteen
17 percent (18%) of the amount advanced to the maker of the check
18 whose presentment or negotiation is deferred.

19 Sec. 202. (1) A deferred presentment agreement may provide for
20 the payment by the maker of reasonable attorney's fees after
21 default and referral to an attorney who is not a salaried employee
22 of the licensee. A provision in violation of this section is
23 unenforceable.

24 (2) An additional charge may be made not to exceed twenty
25 dollars (\$20) for each return by a bank or other depository
26 institution of a dishonored check, negotiable order of withdrawal,
27 or share draft issued by the maker.

28 Sec. 301. (1) Each deferred presentment transaction must be
29 documented by a written agreement. The written agreement must
30 contain the name or trade name of the licensee, the transaction
31 date, the amount of the check, and a statement of the total amount
32 of fees charged, expressed both as a dollar amount and its effective
33 annual percentage rate (APR), and all other disclosures required
34 under the federal Truth-In-Lending Act (15 U.S.C. 1601) and state
35 law. The written agreement must authorize the licensee to defer
36 presentment or negotiation of the check until a specific date, not
37 later than thirty-one (31) days from the date the check is accepted
38 by the licensee.

39 (2) Makers who write a check for a deferred presentment
40 transaction on an account that was closed on the date of the
41 transaction or that is closed before the agreed upon negotiation
42 date of the deferred presentment are subject to all civil and
43 criminal penalties available at law. If a check is returned to the
44 licensee from a payor financial institution due to insufficient funds,
45 a closed account, or a stop payment order, the licensee may recover
46 the full amount charged by that institution. Except as otherwise
47 provided, an individual who issues a personal check to a licensee
48 under a deferred presentment agreement is not subject to criminal
49 penalty.

50 (3) Proceeds to the maker in a deferred presentment transaction
51 may be made in the form of a licensee's business check, money
52 order, or cash.

(4) No licensee may roll over any deferred presentment transaction more than three (3) consecutive times, after which the deferred presentment check must be paid off in cash or its equivalent by the maker or deposited by the licensee.

(5) The face amount of a check taken for deferred presentment may not exceed five hundred dollars (\$500) exclusive of the fees allowed by this chapter.

(6) No licensee or person related to the licensee by common ownership or control may have outstanding more than four (4) checks from any one (1) customer at any time, nor may the aggregate face value of all outstanding checks from any one (1) maker payable to any licensee exceed five hundred dollars (\$500). Each licensee may rely on a written representation of a maker regarding the existence of any outstanding checks for deferred presentment.

(7) A licensee may carry on other business at a location where it engages in deferred presentment transactions unless it carries on such other business for the purpose of evasion or violation of this chapter.

(8) A licensee under this chapter shall charge only those fees specifically authorized in this chapter.

(9) A licensee shall provide a notice in a prominent place on each deferred presentment agreement in at least ten (10) point type in substantially the following form:

NOTICE

STATE LAW PROHIBITS YOU FROM HAVING MORE THAN 4 DEFERRED PRESENTMENT TRANSACTIONS TOTALING MORE THAN \$500 OUTSTANDING AT ANY ONE TIME. FAILURE TO OBEY THIS LAW COULD CREATE SEVERE FINANCIAL HARDSHIP FOR YOU AND YOUR FAMILY.

Sec. 401. A licensee may not take an assignment of earnings of the maker for payment or as security for payment of a deferred presentment transaction or otherwise. An assignment of earnings in violation of this section is unenforceable by the assignee of the earnings and revocable by the maker. This section does not prohibit an employee from authorizing deductions from his earnings if the authorization is revocable and is otherwise permitted by law."

Delete pages 9 through 10.

Page 11, delete lines 1 through 27.

(Reference is to HB 1715 as printed February 19, 1999.)

Representative SMITH M